REMARKS

This Amendment and Request for Reconsideration is submitted in response to an Office Action mailed May 14, 2008, the shortened statutory period for response having expired on August 14, 2008. Accordingly, a petition for an extension of time and associated fee are enclosed with this amendment. In the event the Commissioner determines that an additional extension of time is required, the undersigned hereby petitions for such extension and authorizes the Commissioner to charge any required fee to the Milbank deposit account (13-3250).

I. Status of the Claims

Please amend claims 1, 2, 4, 8-11, 17-20, 23-24, and 27-28 as indicated above. Please cancel claim 5. Claims 1-4 and 6-31 are now pending in the application. Claims 1, 11, 17, 19, 20, and 27 are independent claims.

II. Rejections under 35 U.S.C. § 112

The Examiner has rejected claims 1-31 under 35 U.S.C. § 112 ¶ 2, as failing to comply with the written description requirement. The Examiner states that claim(s) contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

In particular, the Examiner points out that claims 1, line 2, the recitation, "purchasing all rights" is a new matter not found in the Specification. The Applicants disagree with the Examiner and submit that the Abstract of the application states "[t]he terms for existing employee stock options are amended to allow transfer under certain conditions, and new employee stock options are issued that include provisions allowing transfer under certain conditions." Thus "all rights" in the transferable employee stock option ("ESO") refer to the

rights according to the terms of the ESOs, including the right to transfer. Therefore, it is not new matter. Withdrawal of the rejection is respectfully requested.

Further, the Examiner indicates that "purchase does not require exercise" and "exchange of the employee stock option does not require exercise" in claims 1, 19 and 20 are new matters not found in specification. Applicants disagree and submit that the Specification, in non-limiting examples, explains at page 10, lines 13-14, that the method allows employees to either sell or exercise the option. Thus, sell/purchase and exercise are separate and distinct actions. In another non-limiting example, the Specification describes purchasing transferable ESOs in step 310 by a Broker Dealer, and exercising the transferable ESOs by the Broker Dealer in step 432 or by a Holding entity in step 610. (Specification, page 14, lines 5-15, page 16, lines 13-14, Figs. 3-4 and Fig. 6) The non-limiting examples clearly explain that exchange/purchase of the ESOs are performed separately from exercise of the ESOs, and exchange/purchase of the ESOs does not require exercise of ESOs. Withdrawal of the rejections is respectfully requested.

Claims 2-18, 21-31 include limitations similar to claims 1, 19 and 20, and are allowable for similar reasons. Withdrawal of the rejections on this ground is respectfully requested.

III. Rejections under 35 U.S.C. § 102

The Examiner has rejected claims 11-16 and 19 under 35 U.S.C. § 102 as being anticipated by *Rudkin* (US Patent Pub. No. 2004/0199449).

Claim 11 recites: A method for transfer of previously issued transferable employee stock options, the method comprising: determining an economic value of a transferable employee stock option, the transferable employee stock option held by an employee, based on an option pricing formula; making the economic value available to the employee holder of the

transferable employee stock option; and providing the economic value to the employee holder of the transferable employee stock option in exchange for all rights in the transferable employee stock option, wherein exchange of the transferable employee stock option does not require exercise of the transferable employee stock option.

Rudkin does not disclose: A method for transfer of previously issued transferable employee stock options, the method comprising: determining an economic value of a transferable employee stock option, the transferable employee stock option held by an employee, based on an option pricing formula; making the economic value available to the employee holder of the transferable employee stock option; and providing the economic value to the employee holder of the transferable employee stock option in exchange for all rights in the transferable employee stock option, wherein exchange of the transferable employee stock option does not require exercise of the transferable employee stock option.

In *Rudkin,* any transfer/exchange of an ESO discussed appears to be an initial purchase of the ESO by an employee from an employer. After the initial purchase, employee held ESOs are not transferable. According to *Rudkin,* "ESOs cannot be traded" and the only way for employees to obtain value is to exercise them. (*Rudkin* [0012]) To exercise ESOs, an employee trades in ESOs for the actual stock. (Definition of "exercise" according to On-Line Financial Dictionary at http://financial-dictionary.thefreedictionary.com/Exercise) Thus, *Rudkin's* "exchange" of ESOs is limited to either the initial purchase or exercise of ESOs. Claim 11's transfer of ESOs without requiring exercise of the ESOs is expressly ruled out by *Rudkin*.

In addition, Applicants submit that the repriceable ESOs cited by the Examiner in *Rudkin* [0022] are not transferable. Applicants further submit that exchange/transfer of ESOs

cannot be implied from exercise of vested ESOs from *Rudkin* [0014], because *Rudkin* expressly eliminates transferability of ESOs.

For at least the above reasons, *Rudkin* fails to anticipate claim 11. Withdrawal of the rejection for claim 11 as to *Rudkin*, is respectfully requested.

Dependent claims 12-16 and independent claim 19 include limitations similar to claim 11, and are allowable for the reasons provided with respect to claim 11.

IV. Rejections under 35 U.S.C. § 103

The Examiner has rejected claims 1-5 and 17-18 under 35 U.S.C. § 103 as being unpatentable over *Rudkin* in view of *Bodurtha et al* (US Patent No. 7,212,990). Claim 5 is cancelled, rendering the rejection moot.

Applicants disagree with the Examiner and traverse the rejections. *Rudkin* or *Bodurtha*, in combination or individually, fails to teach each and every element of the claims 1-4 and 17-18.

With respect to claim 1, the claim recites: A method for transfer of previously issued transferable employee stock options, the method comprising: purchasing all rights to a transferable employee stock option from an employee holding the transferable employee stock option, wherein purchase does not require exercise of the transferable employee stock option; and hedging the transferable employee stock option.

Rudkin does not disclose: A method for transfer of previously issued transferable employee stock options, the method comprising: purchasing all rights to a transferable employee stock option from an employee holding the transferable employee stock option, wherein purchase does not require exercise of the transferable employee stock option; followed by hedging the

transferable employee stock option.

Claim 1 includes elements similar to claim 11, therefore, *Rudkin* fails to disclose the elements in claim 1 as discussed with respect to claim 11. Further, *Rudkin* fails to disclose "hedging the transferable employee stock option" of claim 1. According to *Rudkin,* employees are generally unable to hedge ESOs. (*Rudkin* [0012]) Further, to the extent that *Rudkin* implies that outside investors are able to hedge, it is clear that it is referring to hedging of traditional options by outside investors, and not hedging of ESOs by outside investors. This is because at paragraph [0025] *Rudkin* further states that "ESOs cannot be traded. Hence, there is no market price for them and the only way for employees to obtain value to meet liquidity requirements or to attempt to diversify their portfolio is to exercise them." Those are precisely the types of problems described in the application for the current invention, many of which are resolved by the current invention.

Bodurtha fails to remedy *Rudkin*'s deficiency and there is no motivation to combine. Rights to regular stocks in *Bodurtha* col.3, lines 9-26, cited by the Examiner, are different from rights to ESOs in claim 1. In addition, exercise of common share's voting right in *Bodurtha* col.5, lines 1-5, cited by the Examiner, cannot be used to imply exercise of ESOs.

Since neither *Rudkin* nor *Bodurtha*, in combination or by itself, discloses all the elements as set forth in claim 1, withdrawal of the rejection for claim 1 as to *Rudkin* in light of *Bodurtha* is respectfully requested.

Independent claim 17 has limitations similar to claim 1, and are therefore allowable over *Rudkin* and *Bodurtha* for similar reasons. Dependent claims 2-5 and 18 have limitations similar to claim 1, and are allowable for similar reasons. Withdrawn of the rejections is respectfully requested.

Claims 6-10 are rejected under 35 USC 103(a) as being unpatentable over *Rudkin* in view of *Bodurtha et al* and *Sullivan et al* (2002/0194136). Applicants disagree with the Examiner and traverse the rejections.

Claims 6-10 have elements similar to claim 1. Therefore, similar to the discussions with respect to claim 1, *Rudkin* in view of *Bodurtha* fails to disclose similar elements of clams 6-10. *Sullivan* fails to remedy *Rudkin* or *Bodurtha*'s deficiencies and there is no motivation to combine. As discussed in the previous Amendment and Response dated March 12, 2008, for any ESOs in *Sullivan*, it appears there is no purchase of all rights to an ESO from an employee holding the ESO, where the purchase does not require exercise of the ESO, and hedging the ESO. If there is any transfer of rights to an ESO in *Sullivan,* it appears to be limited to a security interest such as for a margin account, and it is not a transfer of all rights.

For the above reasons, *Rudkin*, *Bodurtha*, or *Sullivan*, in combination or individually, fails to teach each and every element of the claims 6-10. Withdrawn of the rejections is respectfully requested.

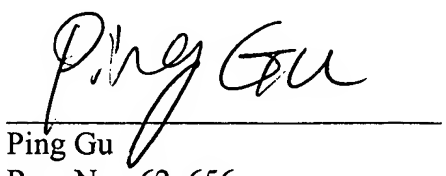
Claims 20-26 and 27-31 are rejected under 35 USC 103(a) as being unpatentable over *Rudkin* in view of *Sullivan*. Claims 20-26 and 27-31 have elements similar to claims 1 and 6-10, and are therefore allowable for similar reasons discussed above. Withdrawn of the rejections is respectfully requested.

V. Request for Reconsideration

Applicants respectfully submit that the claims of this application are in condition

for allowance. Accordingly, reconsideration of the rejection and allowance is requested. If a conference would assist in placing this application in better condition for allowance, the undersigned would appreciate a telephone call at the number indicated.

Respectfully submitted,
Milbank, Tweed, Hadley & McCloy LLP



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